



## **Administrative Office of the Courts**

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Remarks from Court of Appeals Judge Glenn E. Acree  
on the occasion of his at his swearing in as chief judge

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**In Every Crisis, Opportunity**

**Thursday, June 28, 2012**  
**Robert F. Stephens Circuit Courthouse**  
**Lexington, Ky.**

Mr. chief justice, justices of the Supreme Court, fellow judges of the Court of Appeals, circuit, family and district judges, retired judges, members of the bar, my colleagues, my friends, my family: I know my election as chief judge is what brought you here today – that, and perhaps the intolerable heat – but now that you are here, let me say that it is always my honor to be in your presence. And it is my honor now to serve all the people of the commonwealth in this new capacity.

As you might imagine, I've received many congratulations. Yet some have tempered their well-wishes with the concern, or perhaps the warning, that I am assuming this office at a time of crisis. Most, of course, refer to the fiscal crisis the Court of Justice faces. Others point out that for years critics have questioned the independence of the judiciary. Still others comment that our citizens' confidence in the traditional legal system continues to erode.

But then I recall what President Kennedy once said: "When written in Chinese, the word crisis is composed of two characters. One character represents danger, but the other character represents opportunity."

The danger in each of these crises is obvious. So where is the opportunity?

First, I see in our fiscal crisis the opportunity to prioritize programs and functions, to reconsider and consolidate manpower resources, to reassess all Court of Justice spending. Forced to do all these things, we now have a clearer financial picture of the Judicial Branch, this third limb of our government, a clearer picture of what was fat and what is muscle and, as the chief justice has noted, unfortunately, what is bone. And though Judicial Branch underfunding is now cutting into that bone, I remain optimistic.

This fiscal crisis has given me cause to learn more about our most important resources, our human resources. The Court of Justice, after laying off hundreds of workers over the last few years, is down to 3,599 workers. That includes court clerks and deputies, secretaries, staff attorneys, law clerks, judges and all manner of court workers in all 120 counties at all levels of the judiciary. Together they represent an amazing 32,691 years of experience in service to Kentuckians.

But I've learned more than simple statistics.

I've met with dozens of these workers. And nearly to a person, their stories are filled with expressions of loyalty and pride in what they do.

I know an assistant deputy clerk, divorced, whose adult son has had to move back in with her. To make ends meet, she has had to take a second job at night.

She cleans the executive washrooms in a commercial building, including eight toilets. I asked her whether a single job somewhere else, even another branch of government, might not pay as much as her two jobs together. Her heartfelt response, which I later wrote down, was this: "I did well in school, but I couldn't go to college. I've had lots of jobs, but until I worked here I never felt like I was doing anything important. Right here, I know I'm doing something important. I'd rather work two jobs, as long as this is one of them."

I recently met an Ivy League law school graduate near the top of her class who turned down other offers so she could return home to Kentucky to take a job as a law clerk in Family Court. For those who don't know, the salary she settled for is \$26,200. She's not in this for the money.

I know a man from Western Kentucky who ended his own lucrative litigation practice for the privilege of serving as a member of Kentucky's judiciary. He took a substantial cut in income and, at his age, I know he didn't do it for the benefit package.

These men and women have the opportunity in this fiscal crisis to contribute more than they ever imagined when they answered the call to do this work. I can attest that they have embraced that opportunity with added commitment, harder work and greater pride.

Then there is the crisis surrounding the concept of judicial independence. Concern about judicial independence used to focus on independence from executive and legislative interference. Today, this is the least of our worries. Based on newspaper reports, recent decisions of our own Kentucky Supreme Court seem to have put to rest the concern that our judiciary is not independent of the other branches of government.

No, today the fear is that political and ideological influences, campaign contributions and general outside pressures brought to bear by conservatives or liberals, or both, will affect the course of our jurisprudence. But this simply cannot happen with a truly independent judiciary. So what is that? What is judicial independence?

In the end, I would simply define judicial independence as it was summarized in a speech by Connecticut Supreme Court Justice Joette Katz. She said this: “Perhaps judicial independence is best explained as the self-satisfaction that the judge is content in her position as a judge with no driving ambition to be anything else. A judge in pursuit of something other than adjudicatory excellence may subordinate her institutional role as a judge to her personal non-judicial aspirations ... True judicial independence for me then is the knowledge that I have the best job in the world, and that I am unencumbered by anything other than the goal to do that job to the best of my ability.”

In this crisis regarding judicial independence, that is my opportunity. And it is the opportunity of every judge.

Then there is the crisis of confidence in our traditional adjudicatory system. Look around you at this great courtroom. Today, it is a place of celebration. On any other day, for most of the people who come here – and I’m including a few lawyers – it is a scary place.

To paraphrase Yale Law School Professor Robert Cover, the law “takes place in a field of pain and death ... signaling and occasioning the imposition of violence upon others: A judge [rules], and as a result, somebody loses his freedom, his property, his children, even his life.”

Fear of these consequences has caused people and businesses, where they can, to avoid this courtroom and those like it, turning to mediation and arbitration. Now there is nothing wrong with alternative means of dispute resolution unless the reason for pursuing those alternatives is a belief that a fair trial cannot be had right here.

It is sometimes easy to take for granted our form of government as well as the freedoms it protects. It can also be all too easy for us to take for granted the inherent promise that our system makes to people when they walk into a courtroom. The promise is simply this: No matter who you are or where you come from, no matter how much money you make or what color your skin is, what sex you are or how and if you worship, you will be treated fairly and the judge will make his decision based on the facts of the case and the applicable law. The promise is that decisions will be made free of passion, free of prejudice and untainted by public opinion.

But when it comes to keeping this promise, we do not rely only on judges to treat fairly the parties who come before the court. It is also the jurors, the peers of the parties appearing before the court, who we count on to keep this promise. As Thomas Jefferson said, “I consider trial by jury the greatest anchor ever yet devised by humankind for holding a government to the principles of its constitution.” For, in truth, a juror is no less a constitutional officer than a judge or a lawyer.

To assure this promise, we also require every lawyer’s adherence to their duties of zealous representation and candor to the court and unmitigated personal integrity. Each of you, then, has the great opportunity, whether serving as juror or lawyer or judge, to help keep the promise of our form of government, of our system of justice.

So, to all you lawyers, I recommend you take the opportunity of the forthcoming holiday to re-read the code which, when you abide by it, makes you a professional.

And judges, we have canons of our own, obedience to which is required, else we should not call ourselves judges.

The fact is that it's not a bad idea for us to read our canons and our code once a year. And for all of us here today and all of us across this great nation, there is no better activity to engage in on the Fourth of July than to read the Declaration of Independence and the Constitution. These are elegant documents, both in form and in substance, crafted with incredible insight and incredible clarity.

We should remember that it was an 18th-century crisis that spawned the opportunity to create these documents. When such opportunity is embraced, the result can be timeless. These documents, this Declaration and this Constitution, were not written only for an 18th-century audience. Although they employ and apply eternal virtues and principles, the Declaration, and particularly the Constitution, allow for a system of laws that is both constant and malleable. Yes, these are elegant documents, timeless documents, written in crisis hundreds of years ago, and, nevertheless, written for today. These are documents written for you.

Thomas Paine said of the 18th-century crisis that beset our founders, "These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country."

In the time of our crisis, who among you will shrink from service, and who among you will embrace this opportunity?

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